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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

LOUIS A. CARDINALI,

Plaintiff,

v.

PLUSFOUR, INC; RC WILLEY HOME  
FURNISHINGS; WEBBANK/DELL  
FINANCIAL SERVICES; EQUIFAX  
INFORMATION SERVICES, LLC;  
EXPERIAN INFORMATION SOLUTIONS,  
INC.,

Defendants.

Case No. 2:16-cv-02046-JAD-NJK

**EXPERIAN INFORMATION SOLUTIONS,  
INC.'S REPLY IN SUPPORT OF ITS  
MOTION TO COMPEL AND FOR  
SANCTIONS OF HAINES & KRIEGER,  
LLC**

## ARGUMENT

1 of 13

not severe, amounting only to holding H&K to their public advertisements, and forcing them to absorb the monetary costs their bad faith has caused.

**I. EXPERIAN'S DOCUMENT SUBPOENA SEEKS RELEVANT INFORMATION AND EXPERIAN HAS SOUGHT TO MINIMIZE THE BURDEN ON H&K.**

As the Court has already noted, there is little basis to question the relevance of the information sought by Requests 1 to 11 of Experian's Document Subpoena. These Requests go directly to H&K's operations as a credit repair organization, and thus bear on Plaintiff's claims as well as that of any putative class member whose dispute also originated with H&K. Undeterred, H&K argues that these Documents cannot be relevant because its witness (who previously testified under oath that she knows virtually nothing about H&K's operations) put an end to that inquiry. (See ECF No. 106 at 8-9). The Court has already rejected this cart-before-horse approach. (ECF No. 95 at 5; see also ECF No. 90 at 2 (H&K's Reply In Support of its Motion arguing that Plaintiff's declaration "removes an essential element" of H&K's CRO status).) H&K cannot avoid discovery into its credit repair operations by simply asserting that they are not a CRO anymore than Experian can avoid discovery by simply asserting it did not violate the Fair Credit Reporting Act.

The Court has already explained that "[t]here is ample evidence already in the record" to establish the relevance of this discovery. (See ECF No. 95 at 5:25-28.) Nevertheless, H&K seeks to re-argue the issue and to prematurely decide the ultimate merits of Experian's CRO defense.<sup>1</sup> (ECF No. 106 at 5, 8-9.) Regardless, the cases H&K relies on do not move the needle because in each of these cases, the issue of whether the attorney was also a CRO was not specifically addressed. See *Younger v. Experian Info. Sols., Inc.*, No. 2:15-CV-00952-SGC, 2017 WL 5465527, at \*8 (N.D. Ala. Sept. 22, 2017); *Milbauer v. TRW, Inc.*, 707 F. Supp. 92, 94 (E.D.N.Y. 1989) (discussing TRW's argument that the attorney was a CRO, but not deciding the issue because "the Court can easily envision a case where the services of an attorney are needed").

<sup>1</sup> Although available as a sanction under Rule 37, Experian does not seek dismissal of Plaintiff's claim under 15 U.S.C. § 1681i. Plaintiff remains free to argue later that his dispute triggered Experian's duties, notwithstanding the fact that it came from a CRO.

Unsurprisingly, H&K does not point out the persuasive authority that counters its position. *See, e.g., Klotz v. Trans Union, LLC*, 246 F.R.D. 208, 216 (E.D. Pa. 2007) (declining to certify a class under 15 U.S.C. § 1681i where law firm wrote dispute letters, but consumer signed and mailed them, presented individualized issues of whether the dispute was sent “directly”); *see also Rannis v. Recchia*, 380 F. App’x 646, 649 (9th Cir. 2010)(finding an attorney was a CRO and noting that “attorneys are credit repair organizations if they qualify under the CROA”). It is easy to imagine attorneys who, unlike H&K, are not a CRO because they do not advertise credit repair services, and whose practice does not consist of mailing thousands of letters and filing hundreds of FCRA cases in order to be compensated for their credit repair work. The documents H&K will be forced to produce in response to Requests 1 to 11 will let the Court, and later the jury, assess the true nature of H&K’s operations, without having to guess as to just how many disputes H&K sends (Requests 1, 7, 9) or how much money they make (Request 6) from these form disputes (Requests 1, 6).

Experian has also taken numerous steps to minimize the burden on H&K of complying with Experian’s document subpoena. (*See* ECF No. 98 at 14-15 (explaining Experian’s efforts to minimize the burden).) During the meet and confer process, H&K has always sought to avoid any production whatsoever, and has *never* suggested any alternative or modification to these Requests that would lessen the burden of compliance on H&K. Only now, at the eleventh hour, does H&K try to explain how Experian’s Requests are burdensome. This is woefully short of the good-faith meet-and-confer process described in this District’s Local Rule 26-7.<sup>2</sup> Nonetheless, Experian remains willing to accept less than it is entitled to and stands by the compromises it offered in the meet-and-confer process. (*See* ECF No. 98-1 at ¶ 15.)

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<sup>2</sup> H&K’s claims of burden are especially suspect in light of the similar claims it made with regard to the deposition. (*See* ECF No. 85 at 19-20.) There, it similarly claimed burden, but of course even after losing that argument, it endured no burden whatsoever as it put forward a witness who knew nothing and took hardly any steps to prepare. (*See* ECF No. 98, Ex. A at 99:23-100:5.) Either it was being untruthful about the burden it claimed, or it intentionally put forward a witness that would cause it no burden.

1 H&K further claims that this Court need only follow its prior holdings in *Barnum* and  
 2 *Ashcraft*, denying discovery where it required “manually retrieving and reviewing millions of  
 3 records.” *See Barnum v. Equifax Info. Servs., LLC*, No. 2:16-cv-02866-RFB-NJK, 2018 WL  
 4 1245492, at \*2 (D. Nev. Mar. 9, 2018); *Ashcraft v. Experian Info. Sols., Inc.*, No. 2:16-cv-02978-  
 5 JAD-NJK, 2018 WL 6171772, at \*2 (D. Nev. Nov. 26, 2018); ECF No. 106 at 14. That reliance  
 6 is misplaced here. Experian is not asking H&K to sift through millions of records, but seeks only  
 7 reasonably accessible material directly relevant to its defense. As this Court has explained, “[t]he  
 8 party seeking to avoid discovery bears the burden of showing why that discovery should not be  
 9 permitted.” *Ashcraft*, 2018 WL 6171772, at \*1. “[I]t has long been clear that a party claiming that  
 10 discovery imposes an undue burden must allege specific facts which indicate the nature and extent  
 11 of the burden, usually by affidavit or other *reliable evidence*.” *Barnum*, 2018 WL 1245492, at \*2.  
 12 There is no reason to think that Ms. Ferranti’s affidavit is the sort of reliable evidence courts rely  
 13 on in deciding discovery motions.

14 Initially, Ms. Ferranti’s affidavit is a sham affidavit which contradicts her testimony,  
 15 written by H&K’s lawyers solely to defeat Experian’s motion to compel. Were this case at  
 16 summary judgment, the Court would be right to disregard the affidavit entirely. *See, e.g., Zurich*  
 17 *Am. Ins. Co. v. Coeur Rochester, Inc.*, 720 F. Supp. 2d 1223, 1229 (D. Nev. 2010) (“[a]t summary  
 18 judgment, a district court may disregard ‘sham’ affidavits that contradict deposition testimony”)  
 19 (citation omitted). At deposition, Ms. Ferranti initially testified that as H&K’s office manager, she  
 20 filed cases, filed orders, and supervised staff. (ECF No. 98, Ex. A at 13:19-23; 28:20-29:7.)  
 21 Nonetheless, she testified that she did not know a) if H&K maintains files on its clients (*Id.* at  
 22 140:6-21); b) whether H&K has agreements with Knepper and Clark, LLC (*Id.* at 33:25-34:14); c)  
 23 whether H&K tracks the time it spends on client matters (*Id.* at 134:8-12); d) whether H&K tracks  
 24 time it spends providing credit repair services (*Id.* at 134:13-17); e) whether H&K files lawsuits  
 25 on consumers’ behalfs (*Id.* at 94:5-13); or f) whether H&K tracks the revenue it receives from  
 26 litigation under the FCRA (*Id.* at 136:25-137:8). Now, based on a cursory statement that she has  
 27 “become knowledgeable in additional procedures employed by H&K” she offers an affidavit

1 asserting that H&K cannot provide *any* of the discovery Experian seeks. (*See* ECF No. 105-16.)  
 2 This reeks of a sham.<sup>3</sup>

3 Having testified under oath that she did not know this information, Ms. Ferranti cannot  
 4 later change her testimony without adequate explanation. Ms. Ferranti’s explanation makes no  
 5 effort to explain what steps she took to “become knowledgeable” in light of her total lack of  
 6 knowledge at deposition, giving the Court no reason to credit her affidavit. *See Zurich Am. Ins.*,  
 7 720 F. Supp. 2d at 1229 (explaining that determining whether an affidavit is a sham affidavit  
 8 includes evaluating whether “the party submitting the affidavit or declaration provides a sufficient  
 9 explanation for the contradiction”). Moreover, Ms. Ferranti’s declaration bears little resemblance  
 10 to the declarations in *Barnum* and *Ashcraft*, where declarants provided fulsome background  
 11 explain the burden involved in responding to the discovery at issue. (*See* Exhibit A (Declaration  
 12 from *Barnum* providing nine paragraphs of foundational explanation); Exhibit B (Declaration from  
 13 *Ashcraft* providing eleven paragraphs of foundational explanation).) Ms. Ferranti’s Declaration,  
 14 by contrast provides no explanation as to *why* providing *any* of the sought-after discovery would  
 15 be burdensome, and there is little reason to think that finding, for instance, the template H&K uses  
 16 in sending disputes (Request 1);<sup>4</sup> or the form engagement letter H&K uses (Request 2) would  
 17 require H&K “comb[ing] through all of its files.” (*See* ECF No. 106 at 15:7.) Surely H&K is not  
 18 forced to “comb through all of its files” every time it signs up a new client or every time it sends  
 19 a dispute letter on a client’s behalf—these documents are, of course, readily accessible to effectuate  
 20 H&K’s credit repair operations.

21 Ms. Ferranti’s declaration betrays H&K’s view: any compliance with the Federal Rules is  
 22 too burdensome for H&K. This is not an adequate basis to entirely resist the discovery Experian  
 23 seeks, and the Court should compel compliance with Experian’s document subpoena.

24  
 25 \_\_\_\_\_  
 26 <sup>3</sup> Of course, should the Court choose, it could press Ms. Ferranti on this shifting knowledge base  
 at a hearing on this matter.

27 <sup>4</sup> It appears that for at least sometime H&K used a template dispute letter. *See* Exhibit C (dispute  
 letters from Plaintiff to Experian and from Amy Cardinali to Equifax).

**II. H&K FAILED TO ADEQUATELY PREPARE ITS RULE 30(B)(6) WITNESS IN GOOD FAITH**

**A. The Scope of Topic 2 Includes How H&K is Compensated, The Credit Repair Services It Offers, and Related Agreements.**

As problematic as H&K’s wholesale refusal to produce documents is, its behavior at its deposition, and defense thereof, is especially troubling. H&K’s response turns on an artificially narrowed reading of Topic 2 of Experian’s deposition subpoena that this Court already rejected in H&K’s Motion to Quash, and which runs counter to H&K’s own briefing. Topic 2 asked for testimony related to the *nature* of H&K’s agreements, *formal or informal*, related to the sending of consumer disputes. As explained in Experian’s Motion, Experian has never been coy about what it was after and H&K was not confused: “As H&K understands Experian’s position, Experian believes that it can infer ‘compensation’ from H&K’s website content . . . Experian believes that because free consultations could lead to the opportunity to bring a lawsuit at a later time . . . H&K is procuring some vague ‘benefit’ . . . .” (ECF No. 85 at 20:10-17.) Experian was clear at the hearing on H&K’s Motion to Quash: “Haines & Krieger's website, says . . . that they will help them send these kinds of disputes . . . then on the back end they'll sue if there's anything that doesn't get resolved . . . We think that is at least enough to suggest there's valuable consideration . . . .” And the Court understood, rejecting Plaintiff’s declaration as to what constitutes consideration. (See ECF No. 98 at 10:19-27.) Yet, H&K insists that Topic 2 was limited to any fee arrangements for the mere act of writing and mailing the consumer’s dispute. (See ECF No. 105 at 4-5.) Essentially, H&K claims that the Court’s Order was not sufficiently detailed for it to understand what was expected of it. (See ECF No. 105 at 5 (reading “three subtopics” into the Court’s order and complaining “Experian never sought clarification of the Court’s order”).) The briefing, argument, and Order were all quite detailed—there was no mystery as to what was expected.

H&K’s narrow reading of Topic 2 runs wholly counter to both the purposes of the Federal Rules of Civil Procedure generally, and Rule 30(b)(6) specifically. “The Federal Rules of Civil Procedure creates a ‘broad right of discovery’ because ‘wide access to relevant facts serves the integrity and fairness of the judicial process by promoting the search for the truth.’” *Epstein v.*

1 *MCA, Inc.*, 54 F.3d 1422, 1423 (9th Cir. 1995) (quoting *Shoen v. Shoen*, 5 F.3d 1289, 1292 (9th  
 2 Cir.1993)). Accordingly, “[o]ne of the purposes of Rule 30(b)(6) is to curb any temptation a  
 3 corporation might have to shunt a discovering party from ‘pillar to post’ by presenting deponents  
 4 who each disclaims knowledge of facts clearly known to someone in the organization.” *Great Am.*  
 5 *Ins. Co. of New York v. Vegas Const. Co.*, 251 F.R.D. 534, 538 (D. Nev. 2008) (quoting *Federal*  
 6 *Deposit Ins. Corp. v. Butcher*, 116 F.R.D. 196, 199 (E.D.Tenn. 1986)).

7 H&K never complained that it did not understand the scope of Topic 2, never tried to  
 8 negotiate a narrower scope of this Topic, filed briefs acknowledging the scope, heard Experian  
 9 explain its position in open court, and never asked the Court to modify or limit Topic 2. Given  
 10 this extensive record, there can be no doubt that Topic 2 included questions designed to elicit  
 11 testimony about what H&K means when it advertises that it provides credit repair services  
 12 “because the FCRA says that those who violate the law must pay [H&K’s] fees.” (ECF No. 87-4  
 13 at 10.) Notably, the Court’s Order denied H&K’s Motion to quash without any modification to  
 14 the scope of Topic 2. (*See* ECF No. 95.)

#### 15 **B. H&K’s Designee Could Not Answer Questions Within the Scope of Topic 2**

16 A corporation responding to a 30(b)(6) deposition notice must make a “conscientious good-  
 17 faith endeavor to designate the persons having knowledge of the matters sought ... and to prepare  
 18 those persons in order that they can answer fully, completely, unequivocally, the questions posed ...  
 19 as to the relevant subject matters.” *Grahl v. Circle K Stores, Inc.*, No. 2:14-CV-305-RFB-VCF,  
 20 2017 WL 3812912, at \*3 (D. Nev. Aug. 31, 2017) (citation omitted). There is no doubt that H&K  
 21 willfully failed to fulfill these duties.

22 H&K’s designee did not know what kind of legal work H&K performs, (*see* ECF No. 98,  
 23 Ex. A at 59:20-25) or even whether H&K enters into engagement letters with its clients at all. (*id.*  
 24 at 125:5-14.) She did not know how much revenue H&K received from FCRA litigation (*id.* at  
 25 136:19-24), or even if H&K tracked that information (*id.* at 136:25-137:3). Ms. Ferranti even  
 26 testified that she made no efforts to understand what H&K means when it advertises that it offers  
 27 credit repair services for free *because* the FCRA says defendants must pay H&K’s legal fees. (*Id.*

at 99:23-101:14). Despite having been warned that “a deposition is not a take home examination” (ECF No. 95 at 9:10), H&K’s designee was not prepared to answer follow-up questions based on the paltry answers she provided. For instance, after testifying that H&K offers its credit repair services on a *pro bono* basis, Ms. Ferranti did not know if H&K reported that fact as required under Nevada’s ethical rules. (*See* ECF No. 98, Ex. A at 52:9-53:1.) Likewise, when it became clear that H&K’s strategy was to obstruct the deposition by having their designee answer “I don’t know” to nearly all questions, Experian was forced to exhaust topics that should be uncontroversial, such as whether or not H&K is truthful in its advertising, yet the witness could not answer these questions either. (*See id.* at 59:3-61:2.)

As allowed under the Federal Rules, Experian asked Ms. Ferranti other questions to discern her foundation and background (*e.g.* was Ms. Ferranti familiar with previous iterations of H&K’s website that equated “Credit Repair” with the FCRA, whether she was nervous, etc.). None of this was improper, and more to the point, does not change the fact that the vast majority of Experian’s questions fall under the scope of Topic 2. H&K’s designee was not prepared to answer these questions as required under Rule 30(b)(6).

### III. H&K COACHED ITS WITNESS TO PROVIDE NONRESPONSIVE TESTIMONY.

Discovery under the Federal Rules is “based on the general principle that litigants have a right to ‘every man’s evidence,’ and that wide access to relevant facts serves the integrity and fairness of the judicial process by promoting the search for the truth.” *Shoen*, 5 F.3d at 1292 (quoting *United States v. Bryan*, 339 U.S. 323, 331 (1950)). “When a deposition becomes something other than [question-and-answer sessions between a lawyer and a witness aimed at uncovering the facts in a lawsuit] because of the strategic interruptions, suggestions, statements, and arguments of counsel, ... it ceases to serve the purpose of the Federal Rules of Civil Procedure: to find and fix the truth.” *Luangisa v. Interface Operations*, No. 2:11-CV-00951-RCJ, 2011 WL 6029880, at \*7 (D. Nev. Dec. 5, 2011) (citations omitted). Despite these well-worn principles, H&K defends the *more than 440* objections it made *in less than 4 hours* by arguing that because

1 these were not speaking objections, it could not have improperly coached its witness. (See ECF  
 2 No. 105 at 14-15.) According to H&K, the reason why its witness did know the answers to more  
 3 than 280 questions was not improper coaching, but because a) Experian failed to adequately  
 4 prepare H&K's designee for deposition (which, of course, was H&K's job, not Experian's), b)  
 5 Experian's questions were confusing, or c) the Court did not adequately apprise H&K of the full  
 6 scope of the deposition, and thus the witness was not required to answer questions H&K deemed  
 7 outside the scope. (See ECF No. 105 at 6-11.)

8 H&K disingenuously tries to defend the chorus of "I don't knows" by pointing to isolated  
 9 incidents in Experian's 30(b)(6) depositions in other cases. (ECF No. 105 at 16-20.) This is an  
 10 obvious and misleading red-herring. There simply is no comparison between a witness who  
 11 answers "I don't know" more than 280 times in the span of four hours, and witnesses who answer  
 12 "I don't know" a handful of time over the course of 7 hour depositions.<sup>5</sup> Further, Experian's  
 13 argument is not that Ms. Ferranti was required to know the answer to all of Experian's questions,  
 14 but rather that the pattern of "scope" objections and "I don't know" answers, particularly on  
 15 foundational and uncontroversial issues is evidence of improper witness tampering, designed by  
 16 H&K to obstruct the discovery process.

17 Taking H&K's insistence at face-value strains credulity and requires, among other things,  
 18 believing that Ms. Ferranti really did not know a) if she was given a choice to testify (ECF No. 98,  
 19 Ex. A at 5:24-26:2); b) why she was nervous (*id.* at 22:8-11); c) what her job responsibilities include  
 20 (*id.* at 13:24-14:21); d) whether her LinkedIn profile is accurate (*id.* at 47:21-48:5); e) what her  
 21 job title is (*id.* at 48:7-14), f) if she interacts with clients about payment arrangements (*id.* at 30:9-  
 22 19); g) if she has ever seen or reviewed engagement letters (*id.* at 30:20-32:7); h) what type of law  
 23 H&K practices (*id.* at 56:7-23; 76:6-82:8), among other egregious examples. H&K does not  
 24 explain how it could possibly be true that its witness did not know the answer to these questions.

25  
 26 <sup>5</sup> In *Alexander*, the deposition started at 10:00 a.m., concluded at 4:44 p.m., and Experian's  
 27 30(b)(6) witness responded "I don't know" without providing a substantive answer approximately  
 13 times. In *Hannon*, the deposition started at 10:05 a.m., concluded at 6:05 p.m. and the witness  
 responded "I don't know" without providing substantive testimony approximately 18 times.

1 Indeed, most of these questions should be uncontroversial regardless of the answer. These  
2 questions did not require the witness to guess or estimate, and Ms. Ferranti had no problem asking  
3 Experian to restate questions where she claimed to be confused (triggered by “Argumentative”  
4 objections). (*See id.* at 29:23-30:2; 32:19-21.) Nor does H&K make any effort to try and explain  
5 why it was whenever its lawyer objected to a question on scope grounds, the witness invariably  
6 answered “I don’t know.”

7 There is no good reason for the Court to turn a blind eye to this naked misconduct. Not  
8 only have H&K’s obstructive tactics flouted the Court’s prior order and required the Court to  
9 address multiple unnecessary motions, they are clearly calculated to frustrate the purposes of  
10 discovery under the Federal Rules. It calls out for sanctions.

#### 11 **IV. H&K SHOULD BE SANCTIONED FOR THEIR CONDUCT.**

12 Testimony at deposition is to “proceed as [it] would at trial.” Fed.R.Civ.P. 30(c)(1); *see*  
13 *also Luangisa*, 2011 WL 6029880, at \*6 (D. Nev. Dec. 5, 2011). (“Counsel should never forget  
14 that even though the deposition may be taking place far from a real courtroom, with no black-  
15 robed overseer peering down upon them . . . counsel are operating as officers of th[e] court.” ).  
16 There is little chance that, if this case proceeds to trial, the sorry spectacle of H&K’s deposition  
17 would repeat itself because the Court would not tolerate it. Likewise, “[d]iscovery is not supposed  
18 to be a shell game, where the hidden ball is moved round and round and only revealed after so  
19 many false guesses are made and so much money is squandered.” *Lee v. Max Int’l, LLC*, 638 F.3d  
20 1318, 1322 (10th Cir. 2011). Yet, H&K’s response indicates that a shell game is exactly what they  
21 think discovery is. Despite making *more than 440* objections in a 4-hour deposition, H&K blames  
22 Experian’s questioning. Despite a witness who claimed to not have knowledge of even her own  
23 personal mental state, H&K insists that Experian “got the answers it deserved.” (ECF No. 105 at  
24 2:2-4.) H&K even claims that it does not perform credit repair work (ECF No. 105 at 14), despite  
25 overwhelming and uncontroverted evidence to the contrary. This refusal to take discovery or  
26 compliance with Experian’s subpoena’s seriously requires sanctions.

27

28

1 Rule 37(b)(2)(A)(i) provides that a court may sanction a party for contempt by “directing  
2 that the matters embraced in the order or other designated facts be taken as established for purposes  
3 of the action, as the prevailing party claims.” Similarly, Rule 37(b)(2)(A)(ii) provides that the  
4 court may “prohibit[] the disobedient party from supporting or opposing designated claims or  
5 defenses, or from introducing designated matters in evidence.” Accordingly, a sanction finding  
6 that H&K is a CRO, or at least preventing them from changing their testimony is appropriate here  
7 as it is simply a recognition of the facts in the record.

8 The Credit Repair Organizations Act (“CROA”) provides a simple test to define “credit  
9 repair organization.” A CRO is any person who 1) “uses any instrumentality of interstate  
10 commerce,” (e.g. the Internet), 2) for the “express or implied purpose of improving a consumer  
11 credit record,” and 3) “in exchange for monetary or other valuable consideration.” *See* 15 U.S.C.  
12 § 1679a(3). H&K’s own websites show that they meet this definition. On their website H&K tells  
13 consumers that H&K will “guide you every step of the way” in repairing errors on the consumer’s  
14 credit report. (*See* ECF No. 85-4 at 10). They do so “because the FCRA says that those who  
15 violate the law must pay our fees.” (*Id.*) As Experian explained in its Motion, it is hardly a sanction  
16 at all to simply find what H&K’s website makes obvious: that H&K meets the definition of CRO  
17 under the CROA.

18 Moreover, H&K’s efforts to get Experian to withdraw its subpoena to the Nevada Bar  
19 removes any room for doubt on this issue. During her deposition, Ms. Ferranti, echoing H&K’s  
20 Motion to Quash, testified that H&K provides its credit repair services *pro bono*. (*See* ECF No.  
21 87 at 11:3-6 (“Experian also speculates that ‘As H&K is not a non-profit charitable organization,  
22 it seems fair to presume that it is not sending out dispute letters for its customers out of the  
23 goodness of its heart.’ . . . Presumably, Experian’s attorneys are familiar with the concept of *pro*  
24 *bono* work . . .”); ECF No. 98, Ex. A at 52:14-18.) As the Nevada Rules for Lawyers mandate  
25 reporting of *pro bono* service, Experian served a subpoena to the Nevada Bar seeking these  
26 records. Realizing it was caught, H&K offered another dubious affidavit from Ms. Ferranti in an  
27 effort to convince Experian to withdraw its subpoena to the Nevada Bar. This affidavit now admits

1 that H&K does not include its credit repair work on its *pro bono* reporting forms. (See Exhibit D.)  
 2 Thus, the record is wholly undisputed on this point. H&K does not provide credit repair services  
 3 *pro bono*, but rather in exchange for the valuable consideration it receives via legal fees paid for  
 4 in FCRA litigation. There is no good reason in fact or law not to put an end to H&K's obstruction  
 5 by simply making the finding required by the factual record that H&K is a CRO.

6 Similarly, the other sanctions Experian seeks are in line with H&K's misconduct. Should  
 7 the Court decline to make the factual finding that H&K is a CRO, preventing H&K from bolstering  
 8 the record to contradict its own websites is a minor sanction. Likewise, forcing H&K to bear the  
 9 costs that their obstructive approach to responding to Experian's subpoenas is a fair sanction given  
 10 the baseless nature of H&K's resistance.

### 11 CONCLUSION.

12 Experian respectfully requests that this Court enter an order compelling production from  
 13 H&K of all documents responsive to is Rule 45 document subpoena and sanctioning H&K for its  
 14 willful noncompliance of the Court's Order as described above.

15  
 16 DATED this 14th day of December, 2018.

17 NAYLOR & BRASTER

18  
 19 By: /s/ Jennifer L. Braster

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23  
 24  
 25  
 26 *Attorneys for Defendant Experian Information*  
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**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am an employee of NAYLOR & BRASTER and that on this 14th day of December 2018, I caused the document **EXPERIAN INFORMATION SOLUTIONS, INC.'S REPLY IN SUPPORT OF ITS MOTION TO COMPEL AND FOR SANCTIONS OF HAINES & KRIEGER, LLC** to be served through the Court's CM/ECF system addressed to the following counsel:

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